IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1192 OF 2006

Prakash G. Ramchandani .vs. Chairman, NIT

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrars orders.	Court's or Judge's orders.

CORAM: A.P. LAVANDE & R.V. MORE, JJ.

DATED : SEPTEMBER 28, 2007.

Heard Mr. Denge, learned Counsel for petitioner, Mr. S.K. Mishra, learned Counsel for respondent no.1, Mr. S.M. Puranik, learned Counsel for respondent no.2 and Mr. Dangre, learned Counsel for respondent no.3.

This petition under Article 226 of Constitution of India has been filed praying for the following reliefs :-

i. To direct the Respondent No.1 for demolition of the illegal construction of storeys, viz. 7, 8 & 9 of Sadodaya Plaza constructed by the respondent no.3 without any sanction by any competent authority,

ii. To direct the respondent no.1 for removal of High Mast Arial, Electric Transformer which has been erected by the Respondent No.3 without any sanction either from the Aviation Department or the concerned department and electrical department,

iii. Direct the Respondent No.3 to get the shop No.311 situated at 3rd floor registered by executing Sale Deed in favour of the Petitioner as the full consideration has been paid by the Petitioner to the Respondent No.3."

As far as the prayer No.(i) is concerned, the respondent no.1 by filing affidavit dated 5.12.2006 in para 3 specifically pointed

out that respondent no.3 had submitted a building plan for carrying out construction on the plot in question on 15.2.1992. The said building plan was sanctioned by the respondent no.1 on 15.3.1993 and thereafter respondent no.3 resubmitted the building plan on 22.5.1998 and sanction was accorded by the respondent on 3.10.1998 to this plan. The Counsel for the respondent no.1 also invited our attention to document at Annexure R-1 which is occupation certificate given by Building Engineer of respondent no.1, in respect of respondent no.3's construction in question. On perusal of this certificate along with the averments mentioned above, we are of the opinion that there is no merit in the petitioner's contention.

So far as relief claimed in prayer clause (ii) is concerned, the respondent no.2 has filed affidavit on 26.9.2007. In this affidavit, it is pointed out that the respondent no.2 has issued notice under Section 53 of the M.R.T.P. Act. However, no further action could be taken since this Court at Principal Bench had stayed the similar notice issued by various Corporations of State of Maharashtra. In view of this averment, we find no merit in the relief claimed in the second prayer.

So far as the third prayer is concerned, the petitioner claims direction to the respondent no.3 to give possession of the Shop No.311 to him by executing sale-deed. Perusal of this prayer shows that the petitioner is claiming relief of specific performance which relief we are afraid, cannot be granted in the Writ Petition filed under Article 226 of the Constitution of India.

There seems to be private dispute between petitioner and the respondent no.3. The petitioner is at liberty to vindicate this dispute by filing appropriate proceedings in appropriate Court. However, since we find that there is no merit in the reliefs claimed in prayer clauses (i) & (ii), the petition is devoid of any substance and

the same deserves to be dismissed. It is accordingly dismissed with no order as to costs.

JUDGE. **JUDGE.**

J.